



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 11 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Julie Price  
Enviro-Safe Refrigerants, Inc.  
400 Margaret Street  
Pekin, Illinois 61554

Dear Ms. Price:

The U.S. Environmental Protection Agency is reissuing the enclosed Finding of Violation (FOV) to Enviro-Safe Refrigerants, Inc. (you). We find that you have violated the Clean Air Act, 42 U.S.C. § 7413(a) (the CAA), specifically the Significant New Alternative Policy Program regulations at 40 C.F.R. Part 82, Subpart G. EPA promulgated these regulations under Section 608 of the CAA, 42 U.S.C. § 7671g.

We are reissuing the enclosed FOV, originally issued to Enviro-Safe on April 29, 2013, to eliminate citations to any information for which Enviro-Safe has asserted Confidential Business Information (CBI) claims.

We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

The enclosed FOV is for your record only and does not require action on your part. The EPA contact in this matter is Katie Owens. You may call her at (312) 886-6097 if you have questions.

Sincerely,



George T. Czerniak  
Director  
Air and Radiation Division

Enclosure: SBREFA fact sheet

cc: Ray Pilapil, IEPA

1. Section 612 of the CAA, 42 U.S.C. § 7671k, authorizes EPA to identify, review and restrict the use of substitutes for “Class I” and “Class II” ozone-depleting substances (ODS).
2. Under Section 602(b) of the CAA, 42 U.S.C. § 7671a(b), Congress identified “HCFC-22” as a “Class II” ODS.
3. Section 612(a) of the CAA, 42 U.S.C. § 7671k(a), requires that, to the maximum extent practicable, Class I and Class II ODS be replaced by chemicals, products substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.
4. Under Section 612(c) of the CAA, 42 U.S.C. § 7671k(c), EPA promulgated the SNAP program regulations at 40 C.F.R. Part 82, Subpart G. These regulations establish standards and requirements for the use of Class I and Class II substances used in specific major industrial sectors where a substitute is used to replace an ODS including, among other things, refrigeration and air conditioning. *See 59 Fed. Reg.* 13044 (March 18, 1994).
5. Among the purposes of the SNAP regulations is to provide for safe alternatives to ODS. 40 C.F.R. § 82.170(a).
6. Among the objectives of the SNAP program is to identify substitutes for ODS that present lower overall risks to human health and the environment relative to the Class I and Class II substances being replaced. 40 C.F.R. § 82.170(b).

7. Under the SNAP regulations at 40 C.F.R. § 82.176(a), any producer of a new substitute must submit a notice of intent to introduce a new substitute into interstate commerce 90 days prior to such introduction.
8. Under the SNAP regulations at 40 C.F.R. § 82.174(a), no person may introduce a new substitute into interstate commerce before the expiration of 90 days after a notice is initially submitted to EPA under 40 C.F.R. § 82.176(a).
9. Under the SNAP regulations at 40 C.F.R. § 82.172, a “producer” is defined as “any person who manufactures, formulates, or otherwise creates a substitute in its final form for distribution or use in interstate commerce.”
10. Under the SNAP regulations at 40 C.F.R. § 82.172, “substitute or alternative means” is defined as “any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II compound.”
11. Under the SNAP regulations at 40 C.F.R. § 82.172, “use” is defined as “any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.”
12. Under the SNAP regulations at 40 C.F.R. § 82.172, “person” is defined to include a corporation.
13. Under the SNAP regulations, a substitute is exempt from the notice of intent requirement of 40 C.F.R. § 82.176(a) as a so-called “second generation replacement” only if it is designed to replace a non-ODS substitute that EPA has previously approved and if the original Class I or Class II ODS refrigerant is no longer being used or is no longer available for use. *See 59 Fed. Reg.* 13044, 13052.
14. Under the SNAP regulations, it is illegal to use a hydrocarbon refrigerant as a substitute for a Class I or Class II ODS refrigerant for any end use other than industrial process refrigeration systems, or retail food refrigerators and freezers (stand-alone units only). *See 69 Fed. Reg.* 11946, 11952 (March 12, 2004), and *76 Fed. Reg.* 78832 (December 20, 2011).

### **Factual Background**

15. Enviro-Safe is a corporation with a place of business at 400 Margaret Street, Pekin, Illinois (the Pekin facility).
16. At the Pekin facility, Enviro-Safe sells and distributes a product it refers to as “Enviro-Safe 22a” or “ES 22a.”

17. ES 22a is a hydrocarbon.
18. Enviro-Safe's website states that Enviro-Safe Refrigerant "contains a fresh pine scent which is added during the bottling process."
19. The Material Safety Data Sheet for ES 22a states that "flammable vapor may form if allowed to mix with air. Accumulation of gas is an ignition hazard. Vapors are heavier than air and may travel to an ignition source."
20. Hydrocarbons are flammable substances. *See, e.g.,* <http://www.epa.gov/ozone/snap/refrigerants/hc-12a.html>
21. Enviro-Safe's website states that ES 22a is "flammable to an open flame or spark."
22. Enviro-Safe's website has described the product ES 22a as a replacement for a substance known as "R-22," to be used mainly for home air conditioning units.
23. R-22 is a non-flammable ODS approved by EPA for use as a refrigerant in residential air conditioning units.
24. R-22 is another name for HCFC-22. <http://www.epa.gov/ozone/geninfo/numbers.html>
25. Enviro-Safe did not submit a notice of intent to EPA to introduce ES-22a into interstate commerce 90 days prior to such introduction.
26. EPA has not approved ES 22a as a substitute for R-22 or HCFC-22.
27. Enviro-Safe introduced ES 22a into commerce before the expiration of 90 days after a notice of intent has been initially submitted to EPA.
28. The original Class II substance that ES 22a is intended to replace, HCFC-22, is still available for use as a refrigerant and is commonly used throughout the industry.

### **Conclusions of Law**

29. Enviro-Safe is a "person" under the SNAP regulations.
30. ES 22a is a product substitute intended for use as a replacement for a Class I or Class II compound, and thus a "substitute," as defined by the SNAP regulations at 40 C.F.R. § 82.172.
31. Enviro-Safe is a "producer" under the SNAP regulations, in that it formulates or otherwise creates a substitute in its final form for distribution or use in interstate commerce.

32. Enviro-Safe's failure to submit a notice of intent to introduce ES 22a into interstate commerce 90 days prior to such introduction constitutes a violation of 40 C.F.R. § 82.176(a).
33. Enviro-Safe's introduction of ES 22a into interstate commerce before the expiration of 90 days after a notice of intent has initially been submitted to EPA constitutes a violation of 40 C.F.R. § 82.174(a).
34. Enviro-Safe illegally marketed the hydrocarbon product, ES 22a, for unapproved end uses by marketing ES 22a as a replacement for a substance known as "R-22," to be used mainly for home air conditioning units.

#### **Risks to Human Health and the Environment**

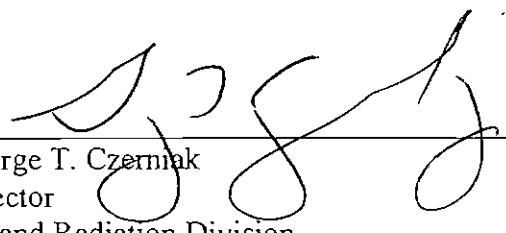
35. The use of ES 22a, a hydrocarbon refrigerant, in home air conditioning units as a substitute for R-22 creates the potential for explosion and fires. As such, it creates a serious risk to human health and the environment.

#### **Finding of Violation**

36. For the above reasons, EPA finds that Enviro-Safe has violated the SNAP regulations at 40 C.F.R. §§ 82.174(a) and 82.176(a).

Date

6/11/13

  
George T. Czerniak  
Director  
Air and Radiation Division

## CERTIFICATE OF MAILING

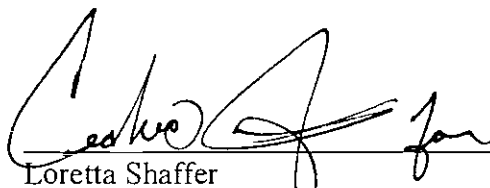
I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-13-IL-30, by Certified Mail, Return Receipt Requested, to:

Ms. Julie Price, Owner  
Enviro-Safe Refrigerants, Inc.  
400 Margaret Street  
Pekin, Illinois 61554

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

On the 11 day of June 2013.

  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7676 0294